

Process and Procedure: How structural problem properties are addressed in the City of St. Paul

Conducted on behalf of
Payne Phalen District 5 Planning Council

Prepared by:
Laura Olson, Graduate Research Assistant
University of Minnesota

August 2000
COPC 019

August 2000

The East Side Community Outreach Partnership Center supported the work of the author of this report but has not reviewed it for publication. The content is solely the responsibility of the author and is not necessarily endorsed by East Side COPC.

East Side COPC is coordinated by the Center for Urban and Regional Affairs at the University of Minnesota. The work that provided the basis for this publication was supported by funding under an award with the U.S. Department of Housing and Urban Development. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government.

East Side Community Outreach Partnership Center
Administrative Office
330 Hubert H. Humphrey Center
301 - 19th Avenue South
Minneapolis, MN 55455

phone: 612-625-1020
e-mail: npcr@freenet.msp.mn.us
website: <http://www.npcr.org>

TABLE OF CONTENTS

Executive Summary	3
Background	3
Case Study	3
Definition of Terms	5
Current City Policies and Procedures	6
Problem Remains/ District 5 Alternatives	11

EXECUTIVE SUMMARY

The purpose of this report is to delineate the complicated regulatory and intervention strategies that are applied towards property owners with housing code violations. Properties containing such violations will be referred to as structural problem properties in the remainder of this report. In order to help determine the bureaucracy's sequence of steps, its efficiency and effectiveness, information was gathered through discussions with neighborhood organizers, elected city officials and city administrators. To help develop a clearer understanding of the circuitous route a violation complaint must follow, this document and corresponding flowchart is intended to help disseminate the role of individuals and agencies. Ultimately, the Payne-Phalen District 5 Planning Council of St. Paul will utilize this information to help them make worthwhile interventions to improve neighborhood housing.

BACKGROUND

It is clear that the City of St. Paul recognizes how a poorly maintained property can negatively influence the way residents and outsiders view a particular neighborhood. To combat this problem, the city actively maintains institutions such as the Division of Property Code Enforcement, the Citizen Service Office, and the Fire Department's Division of Property Code Enforcement (Fire Prevention), as well as neighborhood block clubs and district councils. All of these aforementioned groups focus at least part of their energies on battling detrimental housing code violations. In addition, the city has established a specific system in which housing code violators are identified and held accountable for their infractions. Yet, despite the City's intentions, it is this same multitude of organizations, agencies, and officials that can create the impression of bureaucratic impassability for the average citizen.

The Payne-Phalen District Five Planning Council on St. Paul's East Side has expressed a desire to better understand the intricacies of this system. They represent a racially and economically diverse neighborhood with approximately 27,000 people occupying approximately 11,000 housing units. Because much of the housing is older it is especially susceptible to serious deterioration and structural problems. District 5 has a full-time staff member working on neighborhood problem properties who has continual contact with city and code enforcement administration. Therefore, they are interested in understanding the process and identifying areas in which a neighborhood council could render the most influence.

CASE STUDY

The following case study was taken from the St. Paul City Council Research's 1995 Report on Chronic Problem Properties. This study is a useful tool for understand the City's complex and tedious interactions with structural problem properties.

This property, located in the neighborhood of 3rd and Maria, is a two-story home with a detached garage. It has been a rental property since the current owners purchased it in the mid-1980s. The first tenants rented the house for less than a year, and moved out owning rent. The next tenant who remained for five years, was a middle-aged man whose adult daughter lived with him periodically. The City first became aware of problems at the property in 1990 when neighbors requested the City look into a problem of used tires and debris littering the yard. Over the course of the next several years the City responded to numerous complaints on the property, resulting in at least 12 orders to remove debris from the yard. The property was cleaned up to the satisfaction of the inspectors many times, only to become garbage and debris-ridden again. The tenant appeared in Housing Court and was charged with failure to maintain the exterior of the property, and was fined \$700, of which \$500 was suspended with the stipulation the yard be cleaned up.

The resulting contact with the owner by the Public Health Division (now Code Enforcement) led to little improvement in the situation. The owner had several contacts with the tenant regarding the tires and other debris in the yard. The tenant maintained that the debris was related to his livelihood.

The City's scrutiny of the property increased during the summer and fall of 1993 when it finally became a case-managed property. In July 1993, the electricity was shut off and the building was subsequently condemned. However, the condemnation was soon lifted with the electrical bill was paid by the tenant. In September, the owner was tagged (cited) for failure to maintain the exterior of the property and failure to post ownership. This tag resulted in the owner appearing in Housing Court, paying \$25 in court costs, and being assessed a \$100 fine suspended on the condition there would be no "same or similar" episodes for one year.

In December of 1993, the owner was tagged once again for failure to maintain the exterior of the property, not only for yard debris, but also for the condition of the exterior of the house. The owner was summoned into Housing Court again in January 1994. Because of the problems associated with squirrels in the attic a six-month continuance was allowed to provide time to fix the property. The owner was also fined \$200, of which \$100 was suspended. The owner was not asked to pay the \$100 suspended fine assessed two months earlier.

The insurance company inspected the property in February of 1994 and concealed the owner's policy, stating it would not reinsure the property until the current tenant vacated. At this point, the owner became convinced of the need to enter the property for inspection, not only because of the insurance issue, but also because the tenant was delinquent in rent payments.

With assistance from the Public Health (Code Enforcement) inspector, the owner was able to gain entry into the house. It was immediately apparent that the debris and garbage removed from the exterior of the property over the years had simply been

relocated into the house. It was also clear that the tenant had not been there for some time. The house was condemned and posted on the spot.

PROBLEM PROPERTIES DEFINED

It is extremely difficult to classify structural problem properties since the severity and character of problem varies greatly from one case to the next. Some violations are the result of property owners who are either uninformed, or physically and/or financially unable to properly maintain a residence. Other violations stem from owners who consciously fail to correct a particular code violation, while others, considered chronic problem properties, have a string of infractions. To additionally complicate matters, what may be considered a housing “problem” in one neighborhood may be acceptable in another. Therefore, to clarify the types of problems this report concentrates on, a structural problem property will be identified as one which:

- 1) Constitutes a nuisance or an eyesore and/or is dilapidated or deteriorated
- 2) Is not maintained adequately and does not conform to minimum health and housing laws

(St. Paul 2).

DEFINITION OF TERMS

Citizen Service Office

This office is made up of four divisions: City Clerk Records, Marketing and Promotions, Information and Complaint, and Property Code Enforcement. The Information and Complaint department provides information and assistance to residents regarding city-related issues, including property maintenance. Of the approximately 40,000 calls Citizen Services receives annually, there are approximately 25,000 calls for service, ½ of which are housing and nuisance code-related (St. Paul 14). In addition, they are responsible for directing the comment/complaint to the proper area of enforcement.

** The Division of Property Code Enforcement*

This division is housed in the St. Paul City Hall and enforces minimum property maintenance standards on all one- and two-family dwellings and all exterior properties citywide. The purpose of this division is to protect public health and safety and maintain the stability of St. Paul’s housing.

Priorities of the program include:

- * Investigating citizen complaints and responding to calls for service.
- * Conducting routine inspection patrols.
- * Providing support to other agencies with similar missions.
- * Enforcing dwelling unit registration provisions

Code Enforcement is staffed with inspectors in areas such as Vacant Buildings and Problem Properties whose jurisdiction is the entire city. There are also “general” inspectors whose areas of concentration are divided up by city census tracts. All inspectors in Property Code Enforcement have the capacity to issue correction notices, summary abatement actions, violations, and condemnation/orders to vacate.

This division has recently gone through numerous organizational and location changes, due to a variety of political and efficiency reasons. Since 1995, Code Enforcement has been a part of the Division of Public Health in the Building and Design Department, a subsection of the Fire Department, and a division of the Citizen Service Office. Currently, the majority of inspectors work from the East Team Police Station.

** Fire Prevention Division*

Fire Prevention acts as the Fire Department’s Division of Code Enforcement. In contrast to Citizen Service’s Code Enforcement, this branch enforces minimum housing, health, and fire code requirements on all commercial and residential properties with three dwelling units or larger. All buildings in this category must have a Certificate of Occupancy (C of O), to confirm that minimum code requirements have been fulfilled. Chapter 33.05 of the St. Paul Legislative Code requires that every building or structure, besides one and two unit dwellings, have a Certificate of Occupancy issued by the Division of Fire Prevention displayed on the property. For residential structures, these certificates are renewed/revoked through an inspection on a two-year cycle or when a special request is made.

CURRENT ST. PAUL POLICIES AND PROCEDURES

Problem Identified and Communicated

Property code violations are most often identified by neighborhood residents, rental tenants, and/or neighborhood and district councils. Although community residents are not always able to professionally determine code violations, their vigilance plays a vital role in identifying potential problems. Currently, structural problem property reports can be communicated through a variety of contacts, all of which ultimately convey the information to the proper city officials.

1. District Council

Many times neighborhood residents contact their District Council office with reports of a problem. The employee assigned to work on the problem property issues in general is often familiar with the property and its owner/landlord and can provide neighborhood-based background information. Once the District Council is notified about a structural problem property, they can either contact the Citizen Service Office or directly communicate with the appropriate code enforcement office.

2. Citizen Service Office

The Citizen Service Office is the main city office with the ability to field and organize these complaints. When a complaint about a property is called in from a District Council, neighborhood resident or tenant, and is deemed to be regarding a legitimate violation, the property's address is entered into the computer system and a file is opened. This database file contains a record of previous code violations, both behavioral and structural, as well as the inspector's comments about steps taken resolve the problem. This computer system will also "track" code violation complaints that are subsequently entered. Depending on the nature of the complaint and the property, the computer system will forward a work order to the appropriate department and staff.

3. Division of Property Code Enforcement

SEE DEFINITION OF TERMS SECTION

4. Fire Prevention

SEE DEFINITION OF TERMS SECTION

CODE VIOLATION VALIDATION

After this work order has been received by the appropriate enforcement agency, a city inspector is responsible for determining whether or not there is a legitimate violation. This is always the first step since there are instances in which a housing complaint does not violate housing code, or the problem is non-existent or is improved or by the time an inspector arrives. In such cases, a note is made in the Information and Compliant database file explaining the circumstances and that no action was necessary.

Response time to individual complaints varies based on the enforcement departments' current workload and the type of complaint. Typically, complaints are investigated and responded to within 5 working days from the time it was entered into the main database. If no response is recorded within these 5 days, the tracking system automatically sends out a reminder. This tracking system continues to send such reminders until a response is entered.

CODE ENFORCEMENT OPTIONS

Once it has been determined that a code violation exists and the proper department has the information, inspectors have a variety of enforcement options available. These options are based on parameters found in the City's Legislative Code and/or in Minnesota Statutes and Regulations. Thus, inspectors' actions represent the City's desire to protect the health and safety of its citizens. The regulatory legislation that directs the inspection process is listed below:

Legislation Governing Property Code Enforcement and Certificate of Occupancy

St. Paul Legislative Code Chapters

19: Powers of Inspectors to Enforce Provisions of Code
29: Unlawful Use of City Property
33: Building Code and Inspection
34: Minimum Housing Standards for Dwellings and Multiple Dwellings (Housing Code)
35: Rental Disclosure Posting
39: Smoke Detectors
42: Filling of Cesspools and Septic Tanks
43: Vacant Buildings
45: Nuisance Abatement
60-67: Zoning Code
105: Care and Maintenance of Boulevard
113: Snow and Ice on Sidewalks
163: Abandoned Vehicles
189: Truth in Sale of Housing
198: Keeping of Animals
334: Pest Control
357: Solid Waste

Minnesota State Legislation and Regulations

Uniform Building Code
Uniform Plumbing Code
Uniform Mechanical Code
Uniform Fire Code
National Electric Code
Minnesota State Energy Code
Asbestos Hazard and Emergency
Response Act (AHERA)
Dangerous and Nuisance Buildings
State Energy Code
Minnesota Pollution Control Agency
(MPCA) Regulations

A. Owner Warning

In about 5% of the cases owners are simply told that they are not in compliance with city ordinances and that they need to correct the violation (St. Paul 14). This option is used only in special circumstances and is the least forceful option available since it lacks the power to be formally enforced.

B. Correction Notice

Issuing a correction notice is the most common response to a housing code violation.

This notice, or "order," contains information about the violation and the date by which it needs be repaired and possible penalties for not being in compliance. This particular property will then be inspected after this date, and if the problem remains, additional orders are sent or the inspector may chose to issue a citation.

Subsection. Property Code Enforcement Appeals

If the owner wishes to challenge the order, they have a chance to appeal at a Property Code Enforcement Hearing. Enforcement Hearings are held twice a month with approximately 10-20 people appealing at each session. The majority of those appealing their order are those who do not believe they are in violation or those who need more time/money to correct the violation.

The Director of Council Research, currently Gerry Strathman, acts as the Hearing Officer and makes judgment recommendations to the City Council. At the hearing, the defendant has the chance to briefly explain the reasons for appealing the order. This can be accomplished through written statements, documents, and physical exhibits. The code enforcement officer who issued the order will also introduce statements and documents to justify the city's position for the particular order.

The job of the Legislative Hearing Officer is to listen to both sides, examine the pertinent documents, ask questions, and develop a recommendation to present to the City Council. Most often the Hearing Officer will present their likely recommendation at the end of the hearing.

The recommendation of the Hearing Officer, along with the appeal (if there is one), will be placed on the consent agenda for the subsequent meeting of the City Council. If the City Council wishes to hear public testimony regarding the appeal, they will schedule a public hearing for that purpose at a future City Council meeting.

C. Summary Abatement

"Summary Abatement" is the term used by the City to describe what is done when the city removes, or abates, a code violation because the property owner fails to do. The Summary Abatement procedure, most often completed by the City's Park and Recreation Department, is outlined in the Nuisance Law, Chapter 45 of the Legislative Code. Its purpose is to remove public health and safety nuisances such as unsecured vacant buildings with broken windows and/or open doors. In addition, summary abatement works to alleviate other property nuisances, such as hazardous wastes, graffiti, noxious substances, stagnant water, unshoveled snow, and uncut grass.

The process for summarily abating a property starts when an inspector issues work orders for a code violation. After the owner receives the order, they must remove or fix the code violation within a specified number of days (approximately 4 to 90 days depending on the type of violation), or the city will abate the violation. If the City is forced into doing the work, the cost of the abatement is assessed to the property owner's real estate taxes

and costs the owner substantially more than doing it on their own. If an owner wants to appeal a summary abatement order or assessment, they can appeal directly to the Legislative Hearing Officer at the Property Code Enforcement Hearing.

D. Citation (Tag)

In most instances, other enforcement options have been attempted or obviously rejected before an inspector will issue a citation. The majority of citations are derived from violations of the Legislative Code (listed above). When a tag is issued to someone who has violated a city ordinance, they are being charged with a criminal violation. After the citation is issued, the Housing Court receives a copy, opens a file, and sets a court date for the defendant. The court date is set approximately 3-5 weeks after the citation is issued, and the violator is required by law to attend court on the set date. If they fail to show, a warrant issued for their arrest. Rarely are these individuals sought out for failure to appear in court; they are usually only arrested if apprehended for another violation. A list of individuals who were issued a citation and failed to appear in court or pay a fine for the violation is located at:

http://www.stpaul.gov/depts/code_enforcement/warrants.html

E. Condemnation

The act of condemnations is utilized as an enforcement option in instances when the city inspector discovers a housing unit unfit for human habitation. Once it has been determined that a residential structure needs to be condemned, it must be vacated by the date specified on the condemnation order or on the placard attached to the property. City condemnations are most often issued based on Legislative Code Chapter 43 and 45, as well as the Building Code and Fire Code.

OUTCOMES

The numerous enforcement options automatically produces a wide variety of outcomes. Clearly, the preferred outcome is to have the property in question brought into code compliance after the owner is made aware of the violation. But for those who refuse/are unable to comply, the City is forced to take additional steps.

A. Housing Court

Ramsey County Housing Court operates in conjunction with Conciliation Court. When property code violations reach the Housing Court they are prosecuted as petty misdemeanors or misdemeanors. An individual charged with a housing code violation will meet with a City Attorney (currently Megan Reilly) who prosecutes for the city, and the inspector. The goal for the City Attorney's office is to protect the interests of the city by promptly prosecuting these cases. The 1995 St. Paul City Council Research Report

reveals that a small number of trials are contested and there are only a few repeat offenders. The majority of issues are resolved at the first hearing and many defendants are elderly residents who have a difficult time affording improvements to their property. The City Attorney can also offer recommendations about appropriate fine levels or imprisonment. Finally, the sentence handed down by the referee is often based on code compliance within a certain time period, often along with a small fee.

B. Revocation of Certificate of Occupancy

If legislative code violations become a chronic problem in a multi-unit dwelling, Fire Prevention has the authority to revoke the building's Certificate of Occupancy. In St. Paul, a building cannot be used or occupied without this certificate. Therefore, the structure would be closed for use until the violations are corrected and another inspection has confirmed the improvements.

C. Case Managed/Ongoing Monitoring

The technique of case management is usually reserved for properties with a history of chronic violations. It is a preventative measure used on properties that receive numerous neighborhood complaints and city citations. When there is a particular property or properties that needs to be "managed," the property will be closely monitored and the inspector will work with the owner/tenants and provide them with applicable information and advice regarding code compliance.

PROBLEM REMAINS/ DISTRICT 5 OPTIONS

Despite the City's numerous inspectors and creative variety of enforcement options, structural problem properties continue to plague certain neighborhoods. Regardless of an inspector's efforts there are properties that persistently produce code violations. This dynamic is frustrating both for those working at the neighborhood level and for the city staff that handle the complaints.

Thus, the sparsely staffed, non-profit District 5 Planning Council faces major obstacles in their effort to improve the safety and appearance of the neighborhood. This is especially evident considering how structural problem property issues are often symptomatic of much larger neighborhood issues. There are a host of other problems, such as crime, neighborhood dynamics, and ownership characteristics which, on some level, impact the degree of property maintenance observed.

Despite this, it is possible for a neighborhood council to influence housing conditions by knowing how and where to make an impact. For example:

*** Contact the Housing Court City Attorney**

One strategy to consider involves contacting the City Attorney that prosecutes Housing Code violations. As mentioned above, the Attorney has the ability to make recommendations regarding fine levels and length of incarceration. And since it is the City Attorney's job to represent St. Paul and its citizens, phone calls or a list of signatures regarding a particular troublesome property/owner due to appear in court may influence how the defendant is disciplined.

Through my interviews with neighborhood organizers I learned that Housing Court is considered to be too lax on prosecuting landlords who have numerous code violations. In addition, it is the renters who are often held responsible for landlord related problems. Therefore, being in contact with the prosecuting attorney may be a way to influence this trend for the benefit of the neighborhood.

*** Contact owner's bank or mortgage company**

This was suggested by John Vaughn from the District 4 Planning Council. The strategy here is to notify the agencies that have a vested interest in the maintenance of the property. Such information could be determined through an investigation of the property. This tactic could result in the owner cleaning up the property or the loaning institution reclaiming their investment/property.

*** Utilize community volunteers to monitor/ report housing code violations**

This alternative involves training members of the community to spot housing code violations and combining forces among agencies working to irradiate problem properties. The District 4 and the Lyndale Neighborhood Association have both used this technique to tackle neighborhood properties that continue to cause problems. In addition, they both have arranged meetings with city inspectors, policy, health and social services workers, owners and tenants, to decide what area of the city the citizen observers should concentrate their efforts on.

It is important to recognize that my suggestions are only based on one summer's research on this issue. It is my hope that the detailed report and flowchart on the structural problem property complaint system will assist those more knowledgeable in this subject area. Finally, I would like to suggest that District 5 keep in contact with Marcia Mourmond of City Council Research. She is working on a problem properties report that will contain useful data and indepth analysis on topics similar to those covered in this report.

Bibliography

Clark, Jay. University of Minnesota. Personal Interview, 6/16/00.

Esling, Joe. Division of Code Enforcement. Phone Interview. 8/14/00.

Lantry, Kathy. District 4 City Council Member. Personal Interview, 6/20/00.

Moore, Sherry. Citizen Service Office. Personal Interview, 6/30/00.

Moermond, Marcia. St. Paul City Council Research Policy Analyst. Personal Interview, 7/18/00.

Orich, Mindy. Ramsey County Housing Court. Personal Interview, 7/3/00.

Owusu, Fred. Division of Code Enforcement. Phone Interview. 8/17/00.

Rettman, Janice. St. Paul City Council. Personal Interview, 6/20/00.

St. Paul City Council. City Council Research Center. A Study of Remedies for Chronic Problem Properties. St. Paul, 1995.

Vaughn, John. District 4 Planning Council. Personal Interview, 6/26/00.

Neighborhood Planning for Community Revitalization Reports

Stark, Christine. Logan Park Neighborhood Association Problem Properties. 1999.

Villares, Gonzalo. Strategies in Dealing with Problem Properties in Dayton's Bluff. 1999.

Acknowledgements

Goetz, Ed. Housing Professor, University of Minnesota Humphrey Institute.

Sylvester, Bruce. District 5 Planning Council.

Walker, Roxi. District 5 Planning Council.